

## McKAY, NEW HAVEN WITNESS, MISSING

Interstate Commerce Commission Unable to Serve Summons.

## HEMINGWAY ON STAND TELLS OF BILLARD CO.

Recalcitrant Witness Discloses Little About \$2,000,000 Concern.

Washington, May 1.—New interest was added to the investigation by the Interstate Commerce Commission into the financial relations of the New Haven Railroad and the Billard company by the unsuccessful efforts of the commission to summon John Hall McKay, who has been mentioned as private counsel for ex-President Mellen, and who, in the opinion of Chief Counsel Folk, is an important, if not an essential, witness. It was learned by the commission that Mr. McKay was at his office in New York yesterday, and that some time during the day he called for Europe. Mr. Folk is now trying to find out whether his departure was before or after his name was brought into the proceeding by the production of confidential letters from Stevenson Taylor.

Samuel Hemingway, president of the Second National Bank of New Haven, one of the recalcitrant witnesses of April 19, testified at length to-day, but disclosed little. Mr. Hemingway, who was one time treasurer of the much-discussed Billard company, said he understood the concern was a holding company, first capitalized at \$500,000. Subsequently the capital was increased to \$2,000,000. He said he did not know where the capital came from; that he knew nothing of the company's operations.

Political contributions paid in 1904 by President Mellen to the Republican National Committee and to various state committees, amounting to \$102,000, figured in the day's testimony as an enlightening incident. These payments, it was shown, did not appear on the New Haven's books, having been authorized by the New Haven directors out of "unexpected profits" from Mr. Mellen's sale of treasury stock of the company.

Julian M. Tomlinson, auditor of the New Haven, was called to the stand by Joseph W. Folk, chief counsel for the commission, who delayed the appearance of Samuel Hemingway, secretary of the Billard company, whose transactions with the New Haven have been under investigation.

Mr. Tomlinson said that his examination of the books of the New Haven showed no expenditures for campaign contributions.

"Did Mr. Mellen say anything to you as to political contributions?" asked Counsel Folk.

"He told me at one time," said Mr. Tomlinson, "that \$50,000 was given to the Republican National Committee and \$5,000 to the Rhode Island Republican State Committee."

Didn't Handle Contributions. Mr. Tomlinson further said these contributions did not go through his hands, but said he had heard Mr. Mellen explain that he had made a profit of \$102,000 in the sale of stock, and that the political contributions were made out of this profit.

Mr. Mellen had given the company a note when he purchased the stock, Mr. Tomlinson asserted, but he did not know how the note was paid off.

"Mr. Mellen never gave me any vouchers showing the payment of campaign contributions," said the witness.

"Do you think your books would show faithfully the political contributions of the road?" asked Carl Gardner, examiner in charge of the investigation.

"There were no such entries that I can recall," said Mr. Tomlinson.

He recalled, however, seeing a voucher of the Consolidated Railroad Company, a New Haven subsidiary, showing the payment of \$100,000 to Edward F. Robbins, then general counsel for the New Haven, which he believed was for political purposes.

"Wasn't that charged to the account of construction and way?" asked Mr. Gardner.

"I couldn't say," the witness answered. Mr. Tomlinson said he thought the books would show a payment of \$23,000 to John Hall McKay from the New England Navigation Company, another subsidiary, and said he would supply any vouchers he could find bearing on that payment.

Further questioning brought out that Billard had given a note to the Navigation company for \$2,199,933.71. The New Haven held the Navigation company's note for \$1,000,000. Billard's note, held by the Navigation company, was turned over to the New Haven to apply on this.

Tells of Billard Transaction. Mr. Folk questioned Mr. Tomlinson also as to the transaction by which John L. Billard is alleged to have made \$2,700,000 by the sale of New Haven stock. Mr. Folk stated that the Billard disposed of 109,948 shares of the New Haven to the Boston Railroad Holding Company at \$154 a share, and that on the same day other New Haven stock was sold to the New England Navigation Company for \$140 a share and turned over to the Boston Railroad Holding Company.

Mr. Tomlinson said the books of the New Haven did not reflect any such transaction.

"Do the books of the New England Navigation Company show that \$2,000,000 was paid in cash for gold notes of the Billard company?" Mr. Folk asked. He suggested that the entry referred to was a cash payment, but added: "I think there is some doubt that cash was paid."

"I would not know if cash were paid," said Mr. Tomlinson.

"Do the records of the navigation company show all the transactions?"

"They contain entries, but no explanations."

Mr. Folk then asked Mr. Tomlinson if he was acquainted with J. B. McKay.

Mr. Tomlinson said that he met Mr. McKay several years ago.

"Do you know what his connection with the New Haven is?"

"No."

"Do you know his business?"

"No."

Hemingway on Stand. Mr. Hemingway took the stand and described his connection with the Billard company, of which he was treasurer until last fall. F. D. Robbins, he said, was instrumental in organizing the company. The company was a holding concern, with an original capital of \$500,000, later increased to \$2,000,000. The books, he said, were under his supervision.

He did not remember getting \$2,000,000 from the New Haven for gold notes of the Billard company. The books and keys to the vault where the Billard company securities were

kept in the office of the treasurer of the New Haven road, he said, he turned over to his successor as treasurer of the Billard company, H. V. Whipple. Mr. Hemingway said he resigned as treasurer at the suggestion of Mr. Billard or Mr. Robbins.

When he retired, he testified, the company had \$10,000,000 notes outstanding.

"What were the assets of the company at that time?" asked Mr. Folk.

"I do not know of any except the debentures of the New England Investment Securities Company," answered Mr. Hemingway.

Mr. Folk endeavored to show that these debentures were exchanged for the Billard company notes, but Mr. Hemingway would not say so. The notes and the debentures were equal in value, he said.

Mr. Hemingway said he became a director of the Boston & Maine Railroad in 1908, when Billard became a stockholder in the road, and resigned about the time he retired as treasurer of the Billard company.

"So you were a dummy for Mr. Billard?"

"Yes, if you want to put it that way."

"What was the Billard company created for?"

"I do not know, except it was to take over the debentures."

"You know there was a law in Massachusetts forbidding the New Haven from owning trolley lines in Western Massachusetts. Now was not the Billard company formed to evade that law?"

"It might have been for that purpose."

The Billard company made no contribution to political parties, the witness said.

Mr. Folk asked Mr. Hemingway if he had drawn a check for \$3,000,000 in connection with the Metropolitan Steamship Company.

"I do not remember it," was the reply. He said he did not recall any dealings with the steamship company.

Further questions along this line were objected to by Homer S. Cummings, attorney for John L. Billard, who maintained that Mr. Hemingway and the other officials of the Billard company who declined to answer questions put to them several weeks ago, were within their rights.

Philip J. Doherty, of counsel for the commission, then questioned the witness.

## ADDING MACHINES MAY CAUSE ACTION

Sale to Government Causes an Investigation—Burleson to Prosecute.

[From The Tribune Bureau.]

Washington, May 1.—Criminal action may develop as a result of a dispute between the Postmaster General and the Burroughs Adding Machine Company, involving a claim of \$45,219.82 by the government for alleged violations of contract on the part of the corporation in supplying adding machines.

Postmaster General Burleson submitted the controversy to the Attorney General on March 18, with a view to determining whether there was ground for indictments against officers of the company.

Attorney General McReynolds referred the matter to United States Attorney Clarence R. Wilson, who has summoned witnesses to testify before the grand jury.

It is charged by Mr. Burleson that the company furnished second hand or "used" machines to the government and charged the price submitted for machines "up to sample."

He says in a letter to the Attorney General that 23 machines not up to the standard were delivered under the contracts for the fiscal years 1909, 1910, 1911 and 1912, and that demands for a rebate from the company have been refused, in violation of an alleged agreement.

William F. McCombe, chairman of the Democratic National Committee, and Leo M. Butzel, of Detroit, are counsel for the adding machine company. The contents of the company are:

That in all the company's contracts it is stipulated that any machine will be taken back if it does not do its work satisfactorily in every respect.

That in all the history of the company no machine has failed in this manner, and no request has been made that a machine be taken back.

That all machines are sold on trial to new customers.

That \$5,000,000 worth of machines are now in the hands of prospective customers.

That it is a fixed custom to give prospective customers thirty days in which to determine whether the machine is satisfactory.

That machines tried in this way and not sold are shipped back to the factory and their component parts distributed for use in construction of other machines.

That upon this practice rests all of the claim of the government that old or worn out machines were delivered.

That the government has never asserted that any machine delivered has failed.

## FIND ALUM NOT HARMFUL

Scientific Experts Reply to Department of Agriculture.

Washington, May 1.—Alum baking powders are no more harmful to the health of a person than any other baking powder, but it is wise to be moderate in the use of foods that are leavened with baking powder.

Such is the conclusion announced today of the referee board of consulting scientific experts of the Department of Agriculture as the result of experiments to determine the influence of aluminum compounds on the nutrition and health of man. The report gives the results of three sets of extensive experiments on human subjects, conducted independently by members of the board, and was in response to questions put to it by the Department of Agriculture.

The board's report was unanimous and was signed by Ira Remsen, president of Johns Hopkins University, chairman; Russell H. Chittenden, professor of physiological chemistry in Yale University and director of the Sheffield Scientific School; John H. Long, professor of chemistry in Northwestern University; Alfonso F. Taylor, professor of physiological chemistry in the University of Pennsylvania; and Theobald Smith, professor of comparative pathology in Harvard.

In the experiments tests were made in each case on healthy young men by including aluminum in some form in their food.

No Federal Grain Inspection. Washington, May 1.—By a vote of 37 to 20 the Senate to-night defeated the bill of Senator McPherson providing for the federal inspection and grading of grain entering into interstate commerce, and designed to secure uniformity in standards and classification of grain. The bill had been before the Senate for more than a year and has been the subject of much discussion in the last few weeks.

ANTI-TRUST BILL UP TO COMMITTEE

Measure Opposed by Only One Member of the Sub-Committee.

LEGISLATION EXPECTED TO PASS THE SENATE

Prohibits Watering Stock and Interlocking Directorates—Provides Fines.

[From The Tribune Bureau.]

Washington, May 1.—The Senate anti-trust bill, which is generally regarded as the limit to which the administration will go in carrying out the purposes enunciated in the President's anti-trust message, was laid before the Interstate Commerce Committee to-day by a sub-committee which had devoted weeks of labor to drafting it.

Only one member of the sub-committee—Senator Brandegee—voted against the bill as it stands. It is expected that there will be sufficient Republican support to pass the measure in the Senate with little modification, if it can be brought to a vote during the present session.

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The Senate bill provides for the establishment of an interstate trade commission similar to that proposed in the House bill. It also proposes legislation supplemental to the anti-trust law for the regulation of big business, which is now the subject of consideration by the Judiciary Committee of the House.

This supplemental legislation proposed in the Senate bill includes the following provisions:

"That no corporation shall engage in commerce, if upon its board of directors or other managing board, or among its officers there is any person who is a member of the board of directors or other managing board of another corporation engaged in commerce and carrying on a competitive business."

"That no corporation shall engage in commerce if it owns, holds or controls, directly or indirectly, the whole or any part of the capital stock or any other means of control of any other corporations carrying on a competitive business."

Threefold Damages Provided. Persons injured by the violation of these prohibitions may bring suit for the recovery of threefold damages.

The "guilt-is-personal" theory is embodied in a section which declares that "whenever a corporation violates any of the provisions of this act, the offense shall be deemed to be also that of the individual directors, officers and agents of such corporation authorizing or ordering any of such prohibited acts." A fine of \$5,000 or imprisonment for one year, or both, is the penalty for the violation.

Some compensation for the restrictions upon their activities in interstate commerce and the regulation of stock issues is afforded corporations which comply with the law. A clean bill of health from the proposed Interstate Trade Commission or the Interstate Commerce Commission, as the case may be, will guarantee them protection from suits to enforce the law.

The sections prohibiting interlocking directorates and holding companies and regulating stock issues contain the provision that no suit shall be brought to enforce the law against corporations which file with either commission, within one year from the passage of the act, petitions alleging that the competitive conditions which render them subject to the law do not exist in their relations with other corporations. The bill requires that the commission shall make a prompt investigation.

Three Months' Immunity. If it finds that the corporation in question is violating the law it is to have immunity from suit for three months, during which it may readjust its affairs. If the commission makes a finding sustaining the petition the immunity remains in force so long as the conditions remain unchanged.

These provisions will, it is believed, give big business an opportunity to readjust its affairs to comply with the law without suffering unnecessary loss.

Whether the bill now before the Interstate Commerce Committee of the Senate will be passed during the present session of Congress is still a matter of conjecture. An attempt will doubtless be made to push it through, but it is to encounter amendments of such a character that it might be found impossible to pass it during the present session. The difficulty that confronts the carrying out of the administration anti-trust policy is not due to the fact that it may be regarded as too radical, but that it may not be considered radical enough by legislators who wish to curb the activities of corporations.

COAL DEALERS DENY RESTRAINT OF TRADE

Three Subsidiaries of Lehigh Valley File Answers to Government Suit.

Three more subsidiaries of the Lehigh Valley Railroad filed answers yesterday in the Federal District Court to the government's Sherman law suit against the road and its subsidiaries charging monopoly and restraint of interstate trade. They were the Lehigh Valley Coal Company, the Coxe Brothers Company, Inc., and the New York and Middle Coal Field Railroad Company.

All deny that they were parties to a combination in restraint of trade. The Lehigh Valley Coal Company admits only a 19 per cent output of the coal lands along the Lehigh Valley road and denies that it acquired the lands by the influence of the railroad. It admits that five of its directors are directors of the Coxe Brothers Company, Inc., and it admits contracts with many of the independent coal operators along the Lehigh Valley road. This it says, benefited the mines, the shippers and the consumers by reducing the cost of distribution.

The company denies the sale of the majority of its stock to the Lehigh Valley Railroad or that it leased a portion of its coal lands to the road. It also denies that it absorbed the properties of the Luzerne and Iron Company and the Green Land Coal Company to suppress competition, as was charged in the complaint.

The New York and Middle Coal Field Railroad and Coal Company denies that it sold its majority stock to the Lehigh Valley Railroad or that it leased a portion of its lands to the road. The answer of the Lehigh Valley Railroad Company will be filed next week.

## EUROPEAN HOTELS, RESORTS & SHOPS

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